

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12-11-2007

CORAM

THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

W.P.No.22305 of 2006
and
MP Nos.1 and 2 of 2006

M.Velusamy

.. Petitioner

vs

- 1.The Inspector General of
Registration
120, Santhome High Road,
Santhome, Chennai 28.
- 2.District Revenue Officer (Stamps)
Collectorate, Coimbatore.
- 3.The Joint Sub Registrar - II
Tirupur
- 4.The Special Tahsildar (Stamp)
Tirupur

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorari to call for the records relating to the order of the first respondent in Pa.Mu.No.27094/No.2/2005 dated 2.5.2006 and consequential demand notice dated 18.5.2006 issued by the fourth respondent in Mu.Pa.No.4020/The/2000 with respect to interest portion and quash the same as illegal and ultravires to Sec.47(A)(4) of the Indian Stamp Act 1899 as amended by Act 1 of 2000.

For Petitioner : Mr.M.Muthappan

For Respondents : Mr.S.Gopinathan
Additional Government Pleader

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ORDER

Invoking the writ jurisdiction of this Court, the petitioner has sought for a writ of certiorari to quash the order of the first respondent in Pa.Mu.No.27094/No.2/2005 dated 2.5.2006, and the consequential demand notice dated 18.5.2006, issued by the fourth respondent in Mu.Pa.No.4020/The/2000 with respect to interest portion, as illegal and ultravires to Sec.47(A)(4) of the Indian Stamp Act 1899 as amended by Act 1 of 2000.

2.The affidavit in support of the petition is perused. The Court heard the learned Counsel on either side.

3.The short facts which led the petitioner to file this writ petition, are as follows:

He purchased a house site in Plot No.50, in Velan Nagar, Thennampalayam Extension, comprised in Survey No.738 (corresponding T.S.No.449/3 and 449/2) and in S.F.No.740 (corresponding T.S.No.447, 448/4) in T.S.Ward No.4 (Old Ward No.20) of Tirupur Town, for a sale consideration of Rs.2,00,000/-. When the document was presented for registration before the third respondent by valuing the property at Rs.48.50 per sq. ft., the third respondent fixed the value at Rs.645/- per sq. ft. as per the guidelines and referred the matter to the second respondent under Sec.47(A)(2) of the Indian Stamp Act. Therefrom, an appeal was preferred by the petitioner before the second respondent. The second respondent, on enquiry, re-fixed the value at Rs.425/- per sq. ft. and directed the fourth respondent to collect the deficit stamp duty together with interest at the rate of 2% per month, and thereafter only, the document could be released, pursuant to which, the fourth respondent has also issued a notice. Under the circumstances, this writ petition has been brought forth before this Court.

4.The only grievance ventilated by the petitioner before this Court, is that though he is prepared to pay the stamp duty at the rate of Rs.425/- as fixed by the second respondent, the direction to pay the interest at the rate of 2% from 24.2.2003, is not correct; that he is liable to make payment of interest only from 2.5.2006 and not from 24.2.2003; that since he has got a right of appeal, as per the available provision, he preferred an appeal, and under the circumstances, the order has got to be quashed and necessary directions be issued.

5.The Court heard the learned Additional Government Pleader on the above contentions.

6.After doing so, this Court is unable to agree with the case of the petitioner. It is not in controversy that when the document was placed for registration before the third respondent, the petitioner valued the property at Rs.48.50 per sq. ft.; but, it was re-fixed by the third respondent at Rs.645/- per sq. ft., and the matter was referred to the second respondent under Sec.47(A)(2) of the Indian Stamp Act. When an appeal was preferred by the petitioner, on enquiry, it was reduced to Rs.425/- per sq. ft. by the second respondent, and a direction was given to the fourth respondent to collect the deficit stamp duty along with interest at 2% on the said amount from 24.2.2003. Now, it is pertinent to point out that the second respondent has issued direction for the collection of the interest amount only from 24.2.2003 and not from the date of registration namely 19.6.2000. The contention put forth by the learned Counsel for the petitioner that the interest has got to be collected only from 2.5.2006 cannot be countenanced for the simple reason that it was an appeal preferred by the petitioner challenging that order of the third respondent before the second respondent. Merely because an appeal is filed, it did not mean that the interest rate stipulated by the authority and payable by the petitioner, would get suspended. But, in the instant case, the second respondent has applied its mind properly and has also directed for the collection of interest at 2% from 24.2.2003. No infirmity is noticed by this Court in applying the provision of law as one envisaged under the Indian Stamp Act.

7.For the reasons stated above, this writ petition deserves an order of dismissal, and accordingly, it is dismissed. No costs. Consequently, connected MPs are also dismissed.

nsv/

Sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

To:

1.The Inspector General of
Registration
120, Santhome High Road,
Santhome, Chennai 28.

2.District Revenue Officer (Stamps)
Collectorate, Coimbatore.

3.The Joint Sub Registrar - II
Tirupur.

4.The Special Tahsildar (Stamp)
Tirupur

+1 cc to Mr.M.Muthappan, Advocate Sr.No.66898.

+1 cc to The Government Pleader Sr.No.67051.

AD(CO)
DCP/14.11

WP No.22305 of 2006

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